

Appl. No. 10/016,686
Amdt. dated July 20, 2005
Reply to Office Action of March 21, 2005

PATENT

REMARKS/ARGUMENTS

Claims 52 and 54 have been revised to recite that the 5T4 antigen is a "human" 5T4 antigen. This reflects an inherent feature of the ScFv antibody recited in the claims and so no alteration in claim scope is intended or believed to have occurred.

Claim 53 has been revised to correct a typographical error in the identification of the SEQ ID No. Support for the change is provided in Figure 1 and on page 59 of the instant application, wherein the relationship between SEQ ID No. 1 (recited in claim 52) and the encoded polypeptide sequence of SEQ ID No. 5 (now recited in claim 53) is described.

Claims 60, 62 and 64 have been canceled without prejudice for pursuit in a continuing application. The cancellation is to expedite issuance of the remaining claims in a patent to further business considerations rather than in acquiescence to any rejection of record.

Claim 63 has been canceled in favor of new claims 96 and 97, which contains the subject matter of claim 63. Applicants have retained the text of claim 63 as shown above to assist in the comparison of claims 63 and new claims 96 and 97.

Claim 65 has been canceled in favor of new claims 98 and 99, which contains the subject matter of claim 65. Applicants have retained the text of claim 65 as shown above to assist in the comparison of claims 65 and new claims 98 and 99.

Claim 66 has been revised to remove the "optional" features previously recited in the claim. That subject matter is now found in new claim 100. Similarly, new claim 101 presents the same previously "optional" feature from claim 66 as a positive feature relative to claim 68.

No new matter has been introduced, and entry of the amendments is respectfully requested.

Objection to the claims

Claim 53 was objected to based on the recitation of SEQ ID No. 1 as an informality. As explained above, the recitation of SEQ ID No. 1 was due to a typographical error which has now been corrected.

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This objection is thus believed to have been obviated and may be properly withdrawn.

Issues under 35 U.S.C. §112, First Paragraph

Claims 52-54, 60-66, and 68 were rejected under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the written description rejection due to an asserted failure "to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention."

The statement of the rejection is set forth in two parts. The first is with respect to the phrase "5T4 antigen" in claims 52-54, 61, 63, 65, 66 and 68. The second part is with respect to claims 60, 62, and 64.

As explained above, claims 60, 62, and 64 have been canceled without prejudice for pursuit in a continuing application. Accordingly, Applicants believe that the second part of the statement of the rejection has been obviated.

With respect to the first part in the statement of the rejection, Applicants have revised claims 52 and 54 to recite "human 5T4 antigen", which reflects an inherent property of the SEQ ID No. 1 encoded polypeptides, including SEQ ID No. 5 based polypeptides, as set forth in the claims. As would be understood by the skilled person, the functionality of a polypeptide and its sequence are highly related and essentially inseparable. Thus the revision of the claims merely explicitly sets forth a feature inherently present in the claim subject matter such that no change in claim scope has occurred.

Applicants believe that the revision obviates the rejection of claims 52-54, 61, 63, 65, 66 and 68. Accordingly, this rejection may be properly withdrawn.

Issues under 35 U.S.C. §102

Claims 60, 62, and 64 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by Shimamura et al. (US Patent 5,856,140).

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As explained above, claims 60, 62, and 64 have been canceled without prejudice for pursuit in a continuing application and without acquiescence to any rejection of record. Accordingly, Applicants believe that this rejection may be properly withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6151.

Respectfully submitted,

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